

REMARKS/ARGUMENTS

Favorable reconsideration of the present application is respectfully requested.

Applicant herein withdraws the prior election of Claims 1-3 and instead newly elects the subject matter of the cancelled Claims 4-10. This subject matter has therefore been reintroduced as new Claims 11-17.

Claim 11 is directed to an embodiment wherein a control apparatus of a hybrid construction machine includes a generator output control body for varying the power output from the power generator in accordance with the content of work performed. For example, referring to the non-limiting embodiment of Figure 4, a generator output control unit 51 can vary the power output from the power generator 11, for example, as shown in Figures 6 and 7, in accordance with the content of the work as shown in Figure 6. Applicants are not aware of a teaching that such a generator output control body is present in Chappell et al. The claims therefore define over Chappell et al., which had been applied against Claim 4.

Concerning Claims 14-17, it is again noted that U.S. patent 6,427,107 to Chiu et al (previously applied against Claims 7-10) was filed on June 28, 2001, which is subsequent to the June 21, 2000 PCT filing date of the present application. Accordingly, Chiu et al is not prior art with respect to the present application.

Applicant therefore believes that the present application is in a condition for allowance and respectfully solicits an early Notice of Allowability.

Respectfully submitted,

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